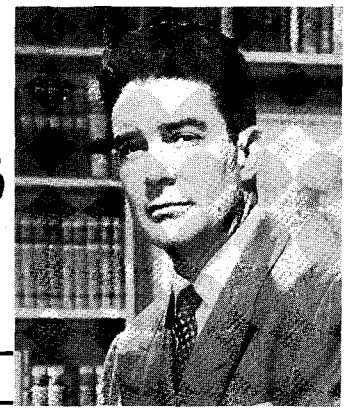
THE
Dan Smoot Report

Vol. 8, No. 12 (Broadcast 345) March 19, 1962 Dallas, Texas



DAN SMOOT

RIGHT TO KEEP AND BEAR ARMS

On January 3, 1961, United States Representative Victor L. Anfuso (Democrat, New York) introduced a bill before the House (designated HR 613) which, if passed, would require all American citizens to register all their handguns with the Federal Bureau of Investigation. The Bill is still pending before the House Judiciary Committee; and there are disturbing indications of recent efforts to have it reported out for a vote.

Here are the essential portions of the Bill:

"A Bill to require the filing of a registration statement with the Federal Bureau of Investigation with respect to each pistol possessed by any private person in the United States. . . .

"SECTION 1. This Act may be cited as the 'Federal Pistol Registration Act.' . . .

"SECTION 2. The Congress hereby finds and declares that (1) the unrecorded possession of pistols imposes a burden on commerce because it facilitates the use of pistols to carry out crimes involving goods in commerce and the assaulting, wounding, and killing of individuals engaged in commerce; (2) in the event of a future war involving the United States, information as to the number, location, and types of pistols in the United States would be indispensable to the prosecution of such a war. It is, therefore, the purpose of this Act to establish a Federal Program for the registration of pistols which shall be administered by the Director of the Federal Bureau of Investigation. . . .

"SECTION 3. . . .

"(1) The term 'person' includes any individual, company, association, firm, partnership, society, or joint stock company.

"(2) The term 'pistol' means any weapon having a barrel of less than twelve inches in length from which a shot can be discharged through the energy of an explosive, whether

THE DAN SMOOT REPORT, a magazine published every week by The Dan Smoot Report, Inc., mailing address P.O. Box 9538, Lakewood Station, Dallas 14, Texas, Telephone TAylor 4-8683 (Office Address 6441 Gaston Avenue). Subscription rates: $10.00 a year, $6.00 for 6 months, $3.00 for 3 months, $18.00 for two years. For first class mail $12.00 a year; by airmail (including APO and FPO) $14.00 a year. Reprints of specific issues: 1 copy for 25¢; 6 for $1.00; 50 for $5.50; 100 for $10.00 — each price for bulk mailing to one person. Add 2% sales tax on all orders originating in Texas for Texas delivery.

Copyright by Dan Smoot, 1962. Second class mail privilege authorized at Dallas, Texas.
No reproductions permitted.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

a single-shot weapon, a revolver, or an autoloading or an automatic firing weapon. . . .

"EXEMPTIONS

"SECTION 7. This Act shall not be deemed to require the filing of a registration statement —

"(1) by any person with respect to any pistol rightfully in his possession which is owned by a department, agency, or instrumentality of the United States, a State, a political subdivision of a State, or the United Nations;

"(2) by any manufacturer or dealer with respect to any pistol in his possession because of his being a manufacturer or dealer."

The Constitution

The Second Amendment to the Constitution of the United States reads, in full:

"A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

Article I, Section 8, of the Constitution states:

"The Congress shall have power . . . to regulate commerce with foreign nations, and among the several states, and with the Indian tribes."

This is the interstate commerce provision of the Constitution.

Constitutional Guarantees Destroyed

In 1933, Franklin D. Roosevelt was inaugurated President, and soon revealed an apparent desire to revamp our system of government and to make it over in the image of socialist governments abroad. The Congress seemed eager only to do whatever Roosevelt demanded. But the Supreme Court had not changed with the violent political winds of those troubled times. The "nine old men" on the Court tried to interpret laws of the New Deal Congress in the light of clear constitutional provisions. Roosevelt gradually changed the complexion of the Court by filling vacancies with such men as Felix Frankfurter, a leader of the socialist movement in the United States. [1] But the Supreme Court justices did not die and vacate their offices fast enough to please Roosevelt. The thinking of jurists appointed by previous Presidents continued to dominate the Court; and the Court continued to declare substantial portions of Roosevelt's New Deal unconstitutional.

In May, 1935, the Supreme Court held Roosevelt's National Industrial Recovery Act (NRA) to be unconstitutional. In January, 1936, the Court invalidated the Agricultural Adjustment Act. In May, 1936, the Court invalidated the Bituminous Coal Act (empowering the federal government to supervise the coal industry).

On February 5, 1937, Roosevelt sent his "Court packing" message to Congress. Roosevelt asked Congress to enact a Bill (which his Brain Truster's had already written) enabling the President to appoint a new Supreme Court justice for each incumbent who reached age 70 and failed to retire. At the time, there were six Supreme Court justices aged 70 or older, who would not retire and make room for the "Roosevelt Judges." Roosevelt's Court-packing bill would also have enabled him to increase Supreme Court membership to fifteen, by appointing six new judges favorable to the New Deal.

Congress rejected Roosevelt's proposal; and the packing of the Court had to await the passage of time. Eventually, as the "nine old men" died, Roosevelt replaced them with fabian socialists until the Supreme Court became what it is today — an oligarchy of men who twist and distort the meaning of our Constitution to serve the cause of the socialist revolution.

Long before this happened, however, Roosevelt had actually prevailed against the Supreme Court. His *threat,* in 1937, to pack the Court intimidated a majority of the Court into submission.

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

On April 12, 1937 — two months and one week after Roosevelt's Court-packing message to Congress — the Supreme Court found the National Labor Relations Act to be constitutional, although the law was patently as unconstitutional as others which the Court had previously invalidated. [2]

The NLRA decision of April 12, 1937, removed constitutional restraints and opened the way for the establishment of government-by-administrative-agencies.

The National Labor Relations Act created an administrative agency, known as the National Labor Relations Board, and granted to that Board vague and almost limitless power to make, enforce, interpret, and adjudicate "administrative laws" — that is, rules and regulations proclaimed by the Board itself — governing the relationships between employers and their employees. Since that time, Congress has created a bewildering number of similar administrative agencies which control most of the activities of all the people. The result has been almost total abandonment of the profoundly important constitutional principle that the powers of government must be separated.

The Constitution separated the federal government into three distinct branches — executive, legislative, judicial — giving each a check on the other, and prohibiting each from encroachment upon the authority of another.

Congress was to make the laws. The Presidency was to administer the laws. And the Courts were to determine whether the laws complied with the original intent of the Constitution and to judge, impartially, alleged violations of the laws.

The system of administrative law eliminates this principle of separation of powers, and sets up an autocracy which can become as evil as anything ever conceived by the nazis or communists.

Congress makes a vague grant of power to bureaucrats in the administrative agencies, enabling them to make whatever rules and regulations they may deem necessary to carry out the purposes of the laws which they are supposed to administer and enforce. Their "administrative" rules and regulations have the force of law; and the bureaucrats can change the "law" any time they wish, without consulting anyone. All they have to do is promulgate a new rule or regulation and publish it in the *Federal Register*. It then is a binding law.

What happens when a citizen, or a business firm, runs afoul of one of these "laws"? The bureaucrats who made the "law" are the ones who bring the charges. They investigate their own charges. They make determinations of guilt or innocence (frequently without even letting the accused know that he has been accused) and they arbitrarily assess penalties.

This system of administrative law has developed, in large part, since the Supreme Court decision in the National Labor Relations Act on April 12, 1937. Another evil which has flowed from that decision is the reinterpretation of the meaning of the interstate commerce provision of the Constitution.

Since 1937, the United States Supreme Court has stretched the meaning of "interstate commerce" to embrace almost every kind of human activity.

An Indiana farmer who raises wheat to feed his own livestock is said to be engaged in interstate commerce, because the wheat *might have moved in interstate commerce* if he had not used it on the farm.

An elevator operator in Poughkeepsie is operating a vehicle engaged in interstate commerce, because there is a pocketknife firm on the third floor which sells to dealers out of state and whose customers use the elevator.

The federal government, calling *black white,* has decided in its ambitious desire to take care of us all, that we all deal in commerce

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

"among the several states," whatever we do, and that we must accept the benevolent interference provided, no matter what the cost.

Federal Firearms Act

One of the most dangerous — but least noticed — of the laws which stretch the meaning of "interstate commerce" into infinity is the Federal Firearms Act of 1938. Here, in brief, are the basic provisions of this law:

1. A person or firm engaged in the manufacture or importation of firearms or ammunition for purpose of sale is required to be licensed by the Treasury Department.

2. A person engaged in the business of selling firearms or ammunition or components thereof, or a person engaged in the business of repairing firearms, is required to be similarly licensed.

3. It is unlawful to ship or otherwise transport in interstate or foreign commerce any firearm or ammunition to any person known to be under indictment or to have been convicted of a crime of violence or to be a fugitive from justice.

4. It is unlawful to ship or otherwise transport in interstate or foreign commerce any stolen firearm or ammunition.

5. It is unlawful to ship or otherwise transport, or knowingly receive in interstate or foreign commerce, any firearm from which the manufacturer's serial number has been removed, obliterated, or altered.

6. It is unlawful for any licensed manufacturer or licensed dealer to ship or otherwise transport any firearm in interstate or foreign commerce to a person in any state the laws of which require that a license be obtained for the purchase of such firearm, unless such license is exhibited to such manufacturer or dealer by the prospective purchaser.

7. Licensed dealers must maintain such permanent records of importation, shipment, and other disposal of firearms and ammunition as the Secretary shall prescribe.

8. The Secretary of the Treasury may prescribe such rules and regulations as he deems necessary to carry out the provisions of the law. [3]

Though their effectiveness is highly doubtful, Provisions 3, 4, 5, and 6 do come under the legal domain of the United States Congress.

Provision number 1, requiring all persons engaged in the manufacture of firearms or ammunition to be licensed by the Treasury Department can be in accordance with the Constitution only in so far as these manufacturers sell and ship *outside* the boundaries of their respective states. The same applies to dealers and repairers of firearms (gunsmiths): there are, however, relatively few dealers in firearms and ammunition who do business outside the boundaries of their states. Nowhere in the Constitution is Congress given authority to require these people (who deal in the manufacture, repair, and sale of ammunition and firearms within their own states) to be licensed by any agency of the federal government.

The most dangerous and illegal provisions in the Federal Firearms Act are the last two, numbers 7 and 8, as listed above. These two provisions empower the Secretary of the Treasury to *legislate* any law, affecting all manufacturers, gunsmiths, and dealers in firearms and ammunition, which the Secretary may at any time "deem necessary to carry out the provisions of the law."

On May 3, 1957, the Secretary of the Treasury took advantage of the powers inherent in the old 1938 law. On this date, the Treasury Department announced a new regulation effective July 1st, 1957. Here are the important provisions of that regulation:

1. Each manufacturer or importer of a firearm shall identify it by stamping in a manner not readily obliterated or altered, the name and location of the manufacturer or importer, and the serial number, caliber, and the model of the firearm.

2. Manufacturers' and dealers' records of receipt and disposal of firearms must be retained *permanently* on the premises until discontinuance of business by the licensee.

3. A manufacturer or dealer must maintain on the premises complete records of the

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

production, receipt, or disposition, at wholesale or retail, of all pistol or revolver ammunition. The ammunition must be described as to manufacturer, type, caliber, and quantity, and the identity of the persons from whom received and to whom sold must be shown.

4. A person purchasing a firearm or handgun ammunition in 'over-the-counter' sales must acknowledge receipt thereof in his own handwriting in the prescribed record.

5. Any Internal Revenue officer shall have the authority to examine the books, papers, and records kept by a manufacturer or dealer and to examine his premises and stock during regular business hours in the daytime or whenever such premises may be open at night. [4]

Thus, the 75th Congress of 1938, which enacted the original Federal Firearms Act, opened a Pandora's box of horrors for all Americans who love their freedom. The 1957 Treasury Department orders (proclaimed under the authority of the 1938 Firearms Act) were modified before full implementation; but, if it had been fully enforced, the Treasury Department's new administrative law would have permitted agents of the Internal Revenue Service, without warrant, to enter and search the private premises and property of dealers in firearms and ammunition, a clear violation of the Fourth Amendment to the Constitution, which ensures freedom from unreasonable federal search and seizure without warrant. The regulation is a clear infringement on the right to keep and bear arms as stated in the Second Amendment to the Constitution.

All the Treasury Department did to "enact" this "law" was to announce it in the *Federal Register*. That's all! No debate, no consultation among political constituents, no roll calls, and no executive signing the "bill" into law.

The *Federal Register*, the virtual statute book of the Washington bureaucracies, is not readily accessible to the public, and can generally be understood only by an expert trained in legal jargon.

Hence, there was no publicity concerning the Treasury Department's new firearms control regulations in 1957. They would have gone into effect on July 1, 1957, if a trained agent of a national gun club had not seen them in the *Register*. A few firearms organizations and patriotic groups publicized the facts; and a howl of public indignation persuaded the Treasury Department to withdraw its new "law."

This was a shallow and temporary victory, because the Federal Firearms Act is still on the statute books, "authorizing" the Secretary of the Treasury to proclaim new firearms control "laws" at any time.

And the Anfuso Bill, now before Congress, is even more sinister than the Federal Firearms Act of 1938.

Analysis of the Anfuso Bill

Section 2 of Mr. Anfuso's Bill states that the "unrecorded possession of pistols imposes a burden on commerce because it facilitates the use of pistols to carry out crimes involving goods in commerce."

Criminals do not now (and will not if Mr. Anfuso's bill is passed) legally buy and dutifully register their guns. Weapons used by hoodlums in the organized underworld are generally stolen from National Guard or police armories, or are smuggled in from foreign countries. Most guns used in major crimes are stolen from somewhere. If a gunman cannot steal a weapon, he can make one. A trained ten-year-old boy can fabricate a deadly weapon from an old automobile radio antenna, a few pieces of scrap metal, a block of wood, and a few rubber bands.

Section 2 of the Anfuso Bill also says:

". . . in the event of a future war involving the United States, information as to the number, location, and types of pistols in the United States would be indispensable to the prosecution of such a war."

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

On which side, "in the event of a future war," would Mr. Anfuso be?

It is suicidal to require the registration of the weapons of citizens in a free country. France had such a law before the Second World War. The nazis confiscated the records and the weapons, making effective resistance impossible, until the British and Americans smuggled weapons in to French patriots.

It was a firearms registration-and-control law, similar to the Anfuso Bill, which enabled communists to disarm Czechoslovak patriots — and thus make the patriots of that country helpless when the communists decided to take over.

Many Americans remember the impassioned pleas of the British for personal firearms to defend their homes and families, in 1940 when a nazi invasion of England seemed imminent. The British had been disarmed by their own government, with severe firearms control regulations, comparable to what the Anfuso Bill proposes now for the United States.

Many Americans also remember that, when our Armies overran Europe toward the end of World War II, we immediately confiscated and used, wherever possible, the lists of people who had been forced by their own government to register their firearms.

In 1939 and 1940, Finland, with a population of only four million (but with an unusually large number of trained riflemen) was able to resist and humiliate the mammoth armies of the USSR, whose population totaled about 170 million.

Switzerland, where most able-bodied men own rifles and know how to use them, spends relatively little on "national defense" and is the only nation of Europe which has enjoyed peace for generations.

Why was Sergeant Alvin York so effective against the Germans in World War I? Because Alvin York had grown up in a free part of the world where a good rifle was a more indispensable part of a man's personal equipment than shoes were!

Mr. Anfuso is right in saying—as Section 2 of his proposed bill does say — that information as to the location of all pistols in the United States would be indispensable to the prosecution of a war: the information would be indispensable to our enemies, that is. Such firearms registration as Anfuso proposes could help no one *but* the enemies of the United States.

It is probably no exaggeration to say that an American citizenry, well armed with personal firearms, and possessing the knowledge to use them effectively and properly, would provide more defense against invasion by a foreign enemy — or against attempt at overt seizure of power by force from within — than all of the "National Defense" which the Kennedy Administration plans to buy with 52 billion, 690 million dollars in the next fiscal year.

There is abundant evidence that the government of the United States, in the interests of "world peace," is actively plotting the surrender of our country to world communist-socialist control. [5]

The proposed Anfuso Bill fits well into this pattern of surrender. Note that the Bill, while requiring all American citizens to register their pistols with the FBI, specifically exempts United Nations personnel.

If and when the United Nations does gain control of all our nuclear weapons and of our Strategic Air Command, and has control of our educational system and of our economy (as is now being planned by our own government), is there any doubt that UN officialdom would demand the FBI records of all pistol registrations? The United Nations is very unpopular in this country, and UN officials know this. Once in control, they will take immediate steps to disarm every American who is known ever to have spoken critically of the United Nations.

Our forefathers believed that a citizen's right to keep and bear arms, free of any kind

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of federal restriction, was basic and inalienable. Indeed, this right is so fundamental to freedom that tyranny must follow if it is abrogated.

A free man must have unrestricted right to own and use personal weapons, in the defense of his family, his home, and his own person, against any kind of marauder — whether the marauder be a soldier in an invading army, an agent of an internal political conspiracy, or a common criminal.

If a man loses his *right* to free, lawful use of personal firearms, he loses his individuality as a free agent in a civilized country. He becomes totally dependent (and, therefore, ultimately a slave) upon centralized police authority for protection of his life, liberty, and property.

Milksops, Fainthearts, and Fools

Small firearms have played an important role in the history of the United States. The Pennsylvania long rifle helped us gain our national independence. The Winchester repeating rifle "won the West." The "M 1" Garand semiautomatic rifle was our soldier's basic arm against his mortal enemies during the Second World War and the Korean "Police Action."

The personal firearm, whether handgun, rifle, or shotgun, is designed to kill. Our ancestors found it necessary to develop the efficiency (killing power) of their rifles and handguns as our frontier expanded. There were animals to kill for food; and there were Indians, British, French, and Mexicans who stood in the path of our "manifest destiny."

However television may distort and exaggerate the facts, the West *was* eventually ruled by the Winchester rifle and the Colt sixgun. These fine weapons were the result of an industrial revolution which was, at least in part, spurred by the necessity of developing efficient firearms. The first instance of true mass production was our manufacture of rifles to fight the British. The world owes many mechanical conveniences — modern automobiles, refrigerators, and other mass-produced items — to the early development of our modern rifle and handgun, which demanded, as a matter of survival, amazing improvements in the steel and machine-tool industries of the United States.

Advocates of restrictive firearms control claim this is all ancient history. These anti-gun crackpots demand, in the name of peace and order, registration of all firearms.

They also contend that, once government outlaws firearms entirely (which would be an inevitable step following compulsory registration) the crime rate will decline dramatically.

Facts indicate that the opposite would happen. Today, we have more restrictive firearms regulations than ever before in the history of the United States; and today there are more robberies, burglaries, muggings, rapes, and other major crimes than ever before.

We should have learned something as a nation from our melancholy experience with the Volstead Act which tried to outlaw intoxicating beverages. Prohibition prohibited lawful traffic in liquor, and delivered to organized gangsterism the biggest windfall it has ever had.

International Suicide

Beatniks, atheists, and one-worlders say that we are rapidly and inevitably moving toward a World Order; that, in order to survive on this "shrunken" planet, in an age of hydrogen bombs and intercontinental ballistic missiles, we must disarm and surrender to a World Authority; that anyone who still clings to old-fashioned notions of individualism and nationalism is mentally ill.

But healthy Americans, who persist in regarding themselves as individuals made in the image of God, know that there is a higher purpose in life than mere physical existence —they know that there are eternal and abso-

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

lute principles of right and wrong, and that there are certain values in human life worth dying for.

American patriots who love God and their country know that the major threat to the peace and happiness of the people of the United States is the drive toward World Order under a World Authority—which will come immediately after the disarmament of individuals and nations who believe in freedom and independence.

Disarmament, proclaimed as the one absolute good by all internationalists, was the political aim of Nikolai Lenin, father of bolshevism. But Lenin was rather candid about it. He said:

"It is only after we have disarmed the bourgeoisie [that is, the "property-owning class"] that the proletariat [that is, "the workers"], without betraying its world historic mission, can turn its weapons into ploughshares. And that is the way the proletariat will act — but only then, and by no means before." (6)

The Time Is Now

The men who manage our national affairs are planning the surrender of our nation to an alien world power. The insane fiscal policies of our political leaders have us near the abyss of national bankruptcy.

If either one of these tragedies occurs—surrender of our independence or national bankruptcy—anarchy could very possibly result.

These are times when the people of the United States, individually and nationally, should be thinking not of disarmament but of preparedness.

This is no time for us to start registering our personal firearms with the federal government, if we wish to remain free and independent in an organized society.

The people of the United States should exert such pressure on Congress that Anfuso's Federal Pistol Registration Act will never be reported out of Committee. More than that, the people should demand outright repeal of the Federal Firearms Act of 1938.

FOOTNOTES

(1) P. 11, *Keynes At Harvard*, published by Veritas Foundation, Box 340, Wall Street Station, New York 5, New York

(2) The history of Roosevelt's conflict with the Supreme Court is from *Undermining The Constitution*, by Thomas James Norton

(3) "The Proposed Federal Firearm Regulations," *The American Rifleman*, October, 1957

(4) Same as Footnote Number 3

(5) See, specifically, the following issues of *The Dan Smoot Report*: "International Control of Education," October 9, 1961; "Strategic Surrender," December 11, 1961; "Super-Patriots," December 25, 1961; "Economic Surrender," in three parts, January 1, 8, and 15, 1962; "Political Surrender," January 22, 1962.

(6) " 'Be It Enacted' May Mean Goodbye Guns," pamphlet by the National Rifle Association.

WHO IS DAN SMOOT?

Dan Smoot was born in Missouri. Reared in Texas, he attended SMU in Dallas, taking BA and MA degrees from that university in 1938 and 1940.

In 1941, he joined the faculty at Harvard as a Teaching Fellow in English, doing graduate work for the degree of Doctor of Philosophy in the field of American Civilization.

In 1942, he took leave of absence from Harvard in order to join the FBI. At the close of the war, he stayed in the FBI, rather than return to Harvard.

He worked as an FBI Agent in all parts of the nation, handling all kinds of assignments. But for three and a half years, he worked exclusively on communist investigations in the industrial midwest. For two years following that, he was on FBI headquarters staff in Washington, as an Administrative Assistant to J. Edgar Hoover.

After nine and a half years in the FBI, Smoot resigned to help start the Facts Forum movement in Dallas. As the radio and television commentator for Facts Forum, Smoot, for almost four years spoke to a national audience giving both sides of great controversial issues.

In July, 1955, he resigned and started his own independent program, in order to give only one side — the side that uses fundamental American principles as a yardstick for measuring all important issues.

If you believe that Dan Smoot is providing effective tools for those who want to think and talk and write on the side of freedom, you can help immensely by subscribing, and encouraging others to subscribe, to *The Dan Smoot Report.*

PRODUCED BY UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED